

**THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

PASTOR FAUSTO PALAFOX,
ALBERT LOPEZ,
ALBERT BENJAMIN PEREZ,
JAMES PATRICK GILLESPIE,
ERNESTO MANUEL GONZALEZ,
BRADLEY MICHAEL CAMPOS,
CESAR VAQUERA MORALES, and
DIEGO CHAVEZ GARCIA,

Defendants.

2:16-cr-00265-GMN-CWH-1-4, 6, & 14-16

DATE: July 18, 2019

Courtroom 7D

THE HONORABLE GLORIA M. NAVARRO, CHIEF UNITED STATES DISTRICT JUDGE

DEPUTY CLERK: Aaron Blazeovich

COURT REPORTER: Araceli Bareng

COUNSEL FOR PLAINTIFF: Dan Schiess and John Han with Matthew Neal, Peter Grimm, and David Arboreen

COUNSEL FOR DEFENDANT: Amy Jacks, Daniel Hill, Andrea Luem, Jess Marchese, Christopher Oram, Shawn Perez, David Fischer, Michael Kennedy, Mark Fleming, Marcia Morrissey, Kathleen Bliss, Ivette Maningo, and Jessie Folkestad

MINUTES OF PROCEEDINGS: Calendar Call

9:22 a.m. The Court convenes. The Court makes preliminary statements and findings as stated on the record. The Court will not permit a Daubert hearing at this time. The Court indicates that the trial and deadlines in this case have previously been continued at the Government's request. For reasons stated on the record, the Court will not permit Matthew Neal, Peter Grimm, or John Carr to provide expert testimony, but the Government may attempt to admit the testimony as lay testimony if the proper foundation is laid. The Court will take a break to allow the Government to determine what testimony can be considered will be admissible. Mr. Fleming requests clarification of the Court's ruling to prepare for the next phase of the hearing. The Court will resume this hearing at 1:00 p.m.

9:52 a.m. Court adjourns.

1:05 p.m. Mr. Han indicates that the Government will not call witnesses to provide lay testimony about the enterprise or code words. The Government indicates it may call Mr. Grimm to testify about his knowledge but will not provide lay testimony. The Government will not call Mr. Carr or Mr. Neal to provide opinion testimony.

1:11 p.m. The Court conducts calendar call. The Court indicates that the Unconscious Bias video will be redacted to remove reference to a biker scenario. The parties are informed as to how the Court conducts voir dire and various trial procedures. The Court indicates the trial schedule will be Monday through Thursday from 9:00 a.m. – 3:00 p.m. with a 30-minute break around 11:00 a.m. and a 15-minute break at 1:00 p.m. The Court indicates that the defendants will get one extra peremptory challenge per defendant, to be used independently. For each additional peremptory challenge that the defense uses, the Government will get one additional peremptory. Ms. Bliss informs the Court that the parties are still working on voir dire questions. Mr. Marchese asks about attorney follow-up voir dire. The Court will provide the parties with 15 to 20 minutes (per defendant) of follow-up voir dire.

1:34 p.m. Mr. Fleming requests the Vagos be called “Vagos Motorcycle Club” instead of being referred to as an outlaw motorcycle gang. Mr. Schiess objects. The Court will allow the phrase “outlaw” once testimony has been admitted explaining the usage and meaning of the term “outlaw”. Mr. Fleming asks if the Government has verified whether potential witness Bob Viera is deceased. Mr. Han confirms that Mr. Viera is deceased. Mr. Fleming requests the court set aside time to handle objections to transcripts after jury selection. Mr. Fleming requests the government provide two-day notice of upcoming witnesses. Mr. Schiess agrees. Mr. Fleming asks that Mr. Lopez’s ankle monitor be removed prior to the start of trial to avoid the jury from seeing the ankle monitor when entering the building. Ms. Morrissey joins in this request on behalf of Mr. Campos. Mr. Perez joins in this request on behalf of Mr. Morales. The Court will confer with Pretrial to determine the best way to handle this request. Mr. Fleming will file a motion to modify the out-of-custody defendants’ terms of supervision to allow them to live together in Las Vegas for the duration of the trial. Mr. Fischer mentions his written motion to be unshackled for the duration of the trial. The Court indicates it isn’t inclined to grant that motion at this time due to safety concerns. Mr. Han responds. The Courtroom Deputy indicates that digital exhibits will not be required until the first day of testimony which is estimated to begin on August 5, 2019. Mr. Schiess will supplement his exhibit list no later than 5:00 p.m. on Friday, July 19, 2019. Mr. Lopez’s Motion to Exclude, (ECF No. 1669), is GRANTED.

2:20 p.m. The Court adjourns.

Jury Trial scheduled to begin on Monday, July 29, 2019, at 8:30 a.m. in Courtroom 7D before Chief Judge Gloria M. Navarro.

DEBRA K. KEMPI, CLERK
U.S. DISTRICT COURT

BY: /S/
Aaron Blazeovich, Deputy Clerk